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In re Application of :
AHMAD et al. :
Application No.: 10/561,279 : DECISION ON
PCT No.: PCT/EP2004/005753 :
Int. Filing Date: 27 May 2004 : PETITION
Priority Date: 18 June 2003 :
Attorney Docket No.: 2003P00685WOUS :
For: BLADE AND GAS TURBINE :

This decision is in response to the “REQUEST TO WITHDRAW THE HOLDING OF ABANDONMENT” filed 17 March 2008 in the United States Patent and Trademark Office (USPTO), which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 27 May 2004, applicant filed international application PCT/EP2004/005753, which designated the U.S. and claimed a priority date of 18 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 December 2005 (18 December 2005 being a Sunday).

On 15 December 2005, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage under 35 U.S.C. 371 accompanied by, *inter alia*, the U.S. Basic National Fee.

On 22 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 29 February 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 22 January 2007 within the time period set therein.

On 17 March 2008, applicant filed the instant "REQUEST TO WITHDRAW THE HOLDING OF ABANDONMENT", which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition filed 17 March 2008 requests that the copy of the declaration accompanying the petition be accepted as having been received on 20 March 2007 pursuant to 37 CFR 1.8(b).

37 CFR 1.8(b) states

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

Items (1)-(3) have been satisfied. Therefore, the declaration received on 17 March 2008 may properly be accepted as originally received in the USPTO on 20 March 2007. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 29 February 2008 is hereby VACATED.

Declaration of Inventors

The declaration filed 20 March 2007 is an improper composite declaration, consisting of one of Page 1, one of Page 2, one of Page 3 and two of Page 4. (Although an attempt has been made to label the pages as 1-5, the fact remains that the first page 4 and the second page 4 are the same page—the differences being that the first page 4 is signed by the two of the three listed

inventors and includes a handwritten note “see page 5” in place of the third signature while the second page 4 is signed by one of the three inventors and includes a handwritten note “see page 4” in place of the first and second signatures.) Each inventor must be presented with a complete declaration which lists all of the inventors, and the signature of each inventor must appear on at least one complete declaration. Multiple complete declarations may be submitted, but it is not permissible to combine pages of separate documents.

Further, the declaration filed 20 March 2007 is not sufficient because it contains non-initialed alterations (the labeling of the pages as “[] of 5” and the handwritten notes “see page 5” and “see page 4” in the signature blocks). 37 CFR 1.52(c). “The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.” MPEP § 605.04(a). Item I.

DECISION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 29 February 2008 is hereby **VACATED**.

Applicants are required to file a proper declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the date of mailing of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

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